

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Griffin Sherbert	Team: Squad #7	CCRB Case #: 201905390	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/11/2019 1:30 PM	Location of Incident: Northeast corner of Manhattan Avenue and Seigel Street	Precinct: 90	18 Mo. SOL 12/11/2020	EO SOL 7/28/2021	
Date/Time CV Reported Tue, 06/11/2019 7:46 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/19/2019 9:30 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Stephen Sheppard	13816	945001	090 PCT
2. POM Volkan Maden	14352	956863	090 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michal Jalbrzykowski	21736	959710	090 PCT
2. SGT Kitwane Lewis	04105	951915	090 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Stephen Sheppard	Force: Police Officer Stephen Sheppard used physical force against § 87(2)(b) § 87(2)(b)	
B.POM Volkan Maden	Force: Police Officer Volkan Maden used physical force against § 87(2)(b) § 87(2)(b)	
C.POM Volkan Maden	Discourtesy: Police Officer Volkan Maden spoke discourteously to § 87(2)(b)	

### Case Summary

On June 11, 2019, Sergeant Kitwane Lewis of the 90<sup>th</sup> Precinct called the IAB Command Center to report the following Level 2 use of force incident involving § 87(2)(b). On June 19, 2019, the CCRB received this case from IAB.

On June 11, 2019, at approximately 1:30 p.m., in the vicinity of Broadway and Lorimer Street in Brooklyn, § 87(2)(b) and a friend were walking to the J Train subway station, when Sgt. Lewis called out to § 87(2)(b). § 87(2)(b) ran into the Lorimer Street J Train station, hopped the turnstile, and ran onto the subway tracks away from the station. Approximately 30 minutes later, § 87(2)(b) walked back along the tracks, exited the subway station, wherein he saw Sgt. Lewis and a group of officers waiting for him. After § 87(2)(b) ran through a parking lot, Police Officer Stephen Sheppard and Police Officer Volkan Maden of the 90<sup>th</sup> Precinct, chased him and tackled him from behind at the intersection of Manhattan Avenue and Seigel Street (**Allegation A: Force-Physical Force**, § 87(2)(g)). While struggling to handcuff him, PO Maden punched § 87(2)(b) twice above the right eye (**Allegation B: Force-Physical Force**, § 87(2)(g)). After he was handcuffed, PO Maden allegedly asked § 87(2)(b) “Where’s the fucking bag,” (**Allegation C: Discourtesy-Word**, § 87(2)(g)).

The investigation obtained seven BWC videos from the involved officers which captured the relevant sections of incident (BR01-BR07).

### Findings and Recommendations

**Allegation A—Force: Police Officer Stephen Sheppard used physical force against § 87(2)(b)**

**Allegation B—Force: Police Officer Volkan Maden used physical force against § 87(2)(b)**

**Allegation C—Discourtesy: Police Officer Volkan Maden spoke discourteously to § 87(2)(b)**

§ 87(2)(b) stated that on June 11, 2019, at approximately 1:30 p.m., he and his friend, § 87(2)(b), were walking toward the Lorimer Street J Train subway station in Brooklyn, when Sergeant Lewis and a few other officers in an unmarked RMP drove by them (BR08). As § 87(2)(b) and § 87(2)(b) walked up the stairs of the J Train subway station, Sgt. Lewis called out § 87(2)(b) name and ran up the stairs toward him. § 87(2)(b) jumped the turnstile, and ran onto the train tracks away from the station. Sgt. Lewis saw § 87(2)(b) on the tracks, laughed at him, and then went back down the stairs of the subway station.

Approximately 15 minutes later, § 87(2)(b) walked back along the tracks toward the station, and exited down the stairs through the same entrance he initially entered. Once at ground-level, § 87(2)(b) saw Sgt. Lewis and other officers waiting for him, and ran through the parking lot of a nearby apartment complex to get away from them. After running through the parking lot onto Manhattan Avenue, § 87(2)(b) saw PO Maden and PO Sheppard, who immediately began to chase § 87(2)(b) on foot. § 87(2)(b) did not know if either officer called out to him or made any statements at the time.

At the intersection of Siegel Street and Manhattan Avenue, § 87(2)(b) tried to jump over some trash bags piled on the curb, but PO Maden and PO Sheppard tackled him from behind, causing him to fall to the ground and sustain abrasions to his elbow and leg. Although § 87(2)(b) initially stated that he blacked out upon being tackled, he clarified that he did not lose consciousness during the incident. Both officers repeatedly ordered § 87(2)(b) to stop

resisting, and to give them his hands. § 87(2)(b) denied that he was moving his body or resisting, and said that the officers had control of both of his hands at the time. PO Maden punched § 87(2)(b) in the face twice with a closed fist, which caused both swelling over his right eye and a bloody lip. Shortly thereafter, PO Maden and PO Sheppard successfully handcuffed § 87(2)(b).

During the struggle, both officers repeatedly asked him for his backpack, and PO Maden said, “Where’s the fucking bag,” which § 87(2)(b) denied having. During the interview, § 87(2)(b) acknowledged that he did have a backpack with him before the incident began, but nothing was in it, and ultimately, he lost it while trying to flee from the officers. A few minutes later, § 87(2)(b) was placed into an RMP and transported to the 90<sup>th</sup> Precinct stationhouse, where he requested medical attention, and was removed to § 87(2)(b).

§ 87(2)(b) medical records obtained from § 87(2)(b) (BR09), prepared in regards to his hospitalization and treatment on § 87(2)(b), in sum and substance reported the following. § 87(2)(b) was transported to § 87(2)(b) by ambulance, upon requesting medical attention at the 90<sup>th</sup> Precinct stationhouse for generalized body pain and a bloody lip. At § 87(2)(b), § 87(2)(b) presented with abrasions to his lower lip, right elbow, right knee, and had a headache, which he was caused by being “pushed to the ground face first,” while “trying to resist NYPD’s arrest.” § 87(2)(b) denied any loss of consciousness, did not require any stitches for his injuries, and did not make any other complaints. CT scans of § 87(2)(b) head, spine, right knee, and maxillofacial area produced unremarkable results.

Arrest Report #§ 87(2)(b) prepared by PO Jalbrzykowski (BR10), and the subsequent ISAR prepared by Captain St. Fort (BR11), in sum and substance reported the following. At approximately 1:40 p.m. on June 11, 2019, § 87(2)(b) was observed by Sgt. Lewis and PO Jalbrzykowski blocking vehicular traffic at the intersection of Broadway and Leonard Street, causing a vehicle to abruptly stop to avoid hitting him. Upon attempting to stop him, § 87(2)(b) fled into J Train subway station, jumped the turnstile without paying, and then ran onto the subway tracks as a train was coming into the station. After canvassing the area, PO Sheppard and PO Maden saw § 87(2)(b) pursued him on foot, and PO Sheppard used a forcible takedown at the corner of Seigel Street and Manhattan Avenue to prevent his escape and place him in custody. It is further reported that § 87(2)(b) actively resisted the officers attempt to handcuff him, by both stiffening and flailing his arms and legs, and that PO Maden used one or two hand strikes against § 87(2)(b) upper body in order to prevent his escape, avoid injury to MOS, and successfully handcuff him. § 87(2)(b) was charged with § 87(2)(b)

§ 87(2)(b) Photos were taken of the abrasions § 87(2)(b) sustained to his lower lip, right arm, and right leg as a result of this incident (BR12-BR14).

The investigation obtained seven BWC videos from the officers involved in this incident (BR01-BR07). PO Sheppard’s BWC (BR01 & BR02) footage captured the relevant portions with regard to the allegations, as detailed below. During his interview, PO Sheppard explained that he had two separate videos because his BWC had inadvertently turned off while bringing § 87(2)(b) to ground, which he turned back on in the midst of the struggle.

PO Sheppard’s first BWC video (BR01), begins without audio, and shows him riding in the passenger side of an RMP. At the 20-second mark, PO Sheppard exits the RMP and chases after § 87(2)(b) seen in the video wearing a black sweatshirt, and black sweat pants with a red stripe. PO Sheppard runs after § 87(2)(b) as he crosses Seigel Street. At the 29-second

mark, § 87(2)(b) is seen approaching and trying to jump over a large pile of black trash bags, as PO Sheppard closes the distance between them and forcibly tackles him to the ground.

PO Sheppard's second BWC video (BR02), begins without video or audio, and at the 5-second mark, PO Sheppard is heard ordering § 87(2)(b) to put his hands behind his back. At the 10-second mark, the video comes into view showing § 87(2)(b) on the ground, PO Sheppard holding his left arm behind his back, and PO Maden enters from the left side of the frame and assists holding § 87(2)(b) left arm. At the 13-second mark, § 87(2)(b) is seen holding his phone in front of him with his right hand, and is heard shouting, "Come to § 87(2)(b) Bro! Come to § 87(2)(b) Immediately after shouting the preceding phrase, at the 17-second mark, PO Maden appears to employ a hand strike against the right side of § 87(2)(b) head and shoulder, evident by PO Maden's right arm seen quickly crossing from the right side of the frame to the left, which corresponds with an audible 'thud,' and § 87(2)(b) do rag is knocked off his head onto to the ground. PO Sheppard orders § 87(2)(b) to give him his hand, as he moves his arm. At the 23-second mark, PO Sheppard's hands are seen successfully handcuffing § 87(2)(b) right hand. The remaining four and half minutes of the video capture PO Sheppard and PO Maden repeatedly asking about the location of "the bag," § 87(2)(b) § 87(2)(b) repeatedly denying he has a bag, and waiting for a transporting RMP to respond. At no point while asking § 87(2)(b) where his bag is, are either PO Maden or PO Sheppard heard asking, "Where's the fucking bag," or using any profanity. The video concludes with PO Sheppard lifting § 87(2)(b) to a standing position and escorting him to a marked RMP on scene.

§ 87(2)(g)  
§ 87(2)(g)

During their interviews, both officers stated that for the last few years, § 87(2)(b) has been known by name and face to the 90<sup>th</sup> Precinct Anti-Crime team, due to his multiple felony arrests for robbing delivery drivers with a firearm, and for a shooting that occurred in the precinct a few months prior to the incident date.

On June 11, 2019, at approximately 1:30 p.m., PO Sheppard and PO Maden received a radio call from Sgt. Lewis, requesting additional units to respond to Broadway and Lorimer Street in Brooklyn, in regards to § 87(2)(b) who was wanted in the area. Neither PO Sheppard nor PO Maden were present for or involved in the initial incident, and were only called to the location after Sgt. Lewis had unsuccessfully attempted to stop § 87(2)(b)

Approximately 30 minutes later, upon their arrival to the scene, Sgt. Lewis informed the officers that he had observed § 87(2)(b) commit a violation earlier, and when he attempted to stop him, § 87(2)(b) fled into the Lorimer Street subway station. When Sgt. Lewis pursued him into the subway station, § 87(2)(b) continued to flee, by running onto the train tracks away from the station. PO Maden added that Sgt. Lewis informed them that § 87(2)(b) § 87(2)(b) had a backpack with him, which was believed to contain a firearm.

While seated in their parked RMP at the intersection of Broadway and Moore Street in Brooklyn, PO Sheppard observed § 87(2)(b) walk down the stairs of the above-ground J Train subway station with a backpack in his hand. Upon seeing the Anti-Crime officers, § 87(2)(b) § 87(2)(b) took off running through the parking lot of an apartment complex, and the officers lost sight of him. PO Sheppard and PO Maden circled the area in their RMP, and after a few minutes, they saw § 87(2)(b) emerge from the other side of the parking lot onto Manhattan Avenue. Upon seeing PO Sheppard and PO Maden, § 87(2)(b) § 87(2)(b) began to run again as PO Sheppard exited the RMP and pursued him on foot.

As § 87(2)(b) attempted to jump over some trash bags on the sidewalk, PO Sheppard simultaneously tackled him, and they both fell to the ground. After parking the RMP, PO Maden ran toward PO Sheppard and § 87(2)(b). The officers struggled to gain control over § 87(2)(b) hands, as he actively resisted being placed in custody by bracing his arms, holding his cell phone and shouting the location into it, refusing to give his hands to the officers, and moving his body around on the ground. PO Sheppard issued multiple commands to § 87(2)(b) to give him his hands, and stop resisting, but he refused to comply.

Although PO Sheppard did not recall PO Maden using any hand strikes against § 87(2)(b), PO Maden acknowledged that he assisted gaining control of and overcoming § 87(2)(b) resistance by using a few hand strikes with a closed-fist to the upper part of § 87(2)(b) torso. PO Maden stated that he used the “soft, meaty-part” of his right palm in striking § 87(2)(b) upper body, and did so to overcome his active resistance and place him in custody. PO Maden added that because § 87(2)(b) was moving his body around, his hand strikes may have connected with § 87(2)(b) shoulder or neck areas, but he did not intentionally strike those areas. PO Maden denied that he or PO Sheppard struck § 87(2)(b) twice in the face, over his right eye with a closed fist. PO Maden also denied that he caused any swelling over § 87(2)(b) right eye or his bloody lip, and said his injuries were more likely caused by being tackled to the ground by PO Sheppard.

Although PO Maden did not recall his hand strikes making contact with § 87(2)(b) face, he acknowledged that due to the chaotic circumstances, it was possible that his hand strikes connected with the “back of § 87(2)(b) head or neck or shoulder.” PO Maden added that because PO Sheppard was positioned behind and over top of the lower half of § 87(2)(b) he was limited to § 87(2)(b) upper body and head areas. During his interview, after reviewing the section of PO Sheppard’s BWC footage that shows his apparent hand strike that connects with the rear right side of § 87(2)(b) in the head, PO Maden stated that while he could not exactly see that specific action within the video footage, he believed it likely occurred. PO Maden denied that he intentionally struck § 87(2)(b) in the head. Shortly after employing the hand strikes, the officers were able to gain control of § 87(2)(b) hands and body, and successfully placed in him in handcuffs.

After § 87(2)(b) was handcuffed, PO Maden asked § 87(2)(b) several times where the backpack he had earlier was, however, § 87(2)(b) repeatedly denied having a backpack. Both officers denied asking § 87(2)(b) “Where the fucking bag,” and denied using any profanity during the incident. PO Maden and a few other officers began searching the general area for the § 87(2)(b) backpack, however, neither the backpack or any firearm therein were ever recovered.

Officers may use force when it is reasonable to ensure the safety of a member of service or a third person, or otherwise protect life, or when it is reasonable to place a person into custody or to prevent escape from custody. Any application or use of force must be reasonable under the circumstances. Members of service will use only the reasonable force necessary to gain control or custody of a subject. Patrol Guide, Procedure 221-01 (BR17).

§ 87(2)(g)

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#### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been party to two CCRB complaints.
  - § 87(2)(b)
- PO Sheppard, a 12-year-member-of-service, has had nine prior CCRB complaints filed against him, with a total of 21 allegations, four of which were substantiated (see Officer History). § 87(2)(g)
  - In CCRB #200804416, a question allegation was substantiated against PO Sheppard, the CCRB recommended Command Discipline, the NYPD declined disciplinary action, and penalized him with instructions.
  - In CCRB #201402388, stop, frisk, and search of person allegations were substantiated against PO Sheppard, the CCRB recommended Command Discipline B, and the NYPD concurred.
- PO Maden, a five-year-member of service, has had three prior CCRB complaints filed against him, with a total of seven allegations, none of which have been substantiated (see Officer History). § 87(2)(g)

#### **Mediation, Civil and Criminal Histories**

- This case was not suitable for mediation.

- On November 1, 2019, a FOIL request was sent to NYC Comptroller's office to determine whether § 87(2)(b) filed a Notice of Claim in regards to this incident, the results of which will be added to the case file upon receipt (BR18).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.: 7

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date